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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,299

04/06/2006

Hans Franzen

16695.10044

7077

27526 7590 11/24/2009  
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EXAMINER

BRADEN, SHAWN M

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

11/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,299	<b>Applicant(s)</b> FRANZEN, HANS	
	<b>Examiner</b> SHAWN M. BRADEN	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/06/2006</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 6-7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08/26/2009.
2. Claim 8 is withdrawn from consideration since it claims subject matter not elected in group I, a continually increasing radial extension is in group III.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 4, 5, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear from the spec and figs. 3a-3d how the claimed z-shape, three radial extension areas and a threadlike undercut can all simultaneously exist in one embodiment. Clarification is requested.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1-5,9-11,13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Doxey (USPN 5,085,340)

7. With respect to claim 1, Robbins shows a container with a bottom shell (14) and a cover shell (11), and with means for interlocking the cover shell with the bottom shell (fig. 1), comprising: a circular opening rim (shown in fig. 2) of bottom shell having at least two first sections (split in 90 degree intervals in the same was as applicant claims) provided with a radial extension (18,19), each having at least one undercut (20,17); an opening rim of cover shell (11) having at least two second sections (split up in the same 90 degree intervals as applicant ) corresponding to the radial extension (33,34) of the first sections, each of the second sections having at least one undercut (30,35), which corresponds to the undercut of the appertaining first section so that, during a rotation (col 4 line 18) of the bottom shell relative to the cover shell, interlocking in the area of the undercuts of the first and associated second sections takes place.

8. With respect to claim 2, Robbins shows the first section and the corresponding second section have, in a cross section, the shape of the letter Z (fig. 3 shows z shape well).

9. With respect to claim 3, Robbins shows wherein the first section and the corresponding second section have, in a cross section, a profile that comprises three radial extension areas (fig. 3 at lead lines 31,32 and right below lead line 34) between which at least one undercut (17) and a vertical area (at lead line 33) is arranged.

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10. With respect to claim 4, Robbins shows wherein the first section and the second section have an undercut that is designed thread-like (Doxey rotates and has ramps that meet a thread like structure).
11. With respect to claim 5, Robbins shows wherein the first section and the second section-each have at least one thread cord (26 meets the structure and recitation of a thread cord).
12. With respect to claim 9, Robbins shows wherein the first section and the second section each have, in the area of their greatest radial distance from the center of the opening rim concerned, a marking (34).
13. With respect to claim 10, Robbins shows wherein the cover shell and/or the bottom shell have at least one recess (the recess that forms the handle on the cover).
14. With respect to claim 11, Robbins shows wherein the lower area of bottom shell and/or cover shell is designed polygonally (29 shown in fig. 4 meets this limitation).
15. With respect to claim 13, Robbins shows wherein, in the locked state, bottom shell and cover shell are situated on top of each other in at least one rim area (fig. 5).
16. With respect to claim 14, Robbins shows wherein rim area of cover shell is adjacent to the inside of the wall of bottom shell (fig. 3).
17. With respect to claim 15, Robbins shows wherein cover shell has a rim indent (28) which extends into the interior of bottom shell (fig. 1).
- 18.

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doxey (USPN 5,085,340) in view of Mitchell (USPN 3,688,942).

Doxey discloses the invention substantially as claimed. However Doxey does not disclose a gasket in the lock area.

Mitchell teaches a gasket (57) in the lock area of the container in the same field of endeavor for the purpose of sealing a container.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a gasket as taught by Mitchell to the container of Doxey in order to seal the container.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAWN M. BRADEN whose telephone number is (571)272-8026. The examiner can normally be reached on Mon-Friday 9-6:30 est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony Stashick/  
Supervisory Patent Examiner, Art  
Unit 3781

/S. M. B./  
Examiner, Art Unit 3781